

16C C.J.S. Constitutional Law § 1551

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Constitutional Law

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PART VI. Privileges and Immunities; Equal Protection

XVII. Subjects and Applications of Equal Protection Guarantee

L. Public Improvements and Services

3. Use of Public Facilities and Services

§ 1551. Residence requirements

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West's Key Number Digest

West's Key Number Digest, Constitutional Law  3531

While certain government facilities may be open to residents on more favorable terms, denying their use to new residents violates equal protection, by infringing the fundamental right to travel.

A government body may charge a higher fee to nonresidents for using certain public facilities without violating the Equal Protection Clause where residents also pay taxes to support the facilities and would otherwise pay a disproportionate share of the cost.¹

In providing services for residents, a governmental unit may not, consistently with the Equal Protection Clause, treat newly arrived residents less favorably, by apportioning services according to the past tax contributions of its citizens; because these requirements touch the fundamental right of interstate movement, their constitutionality must be judged by applying the compelling state interest standard, and under this standard, waiting period requirements violate equal protection.²

Footnotes

- 1 Ill.—*Broeckl v. Chicago Park Dist.*, 131 Ill. 2d 79, 136 Ill. Dec. 106, 544 N.E.2d 792 (1989).
- 2 U.S.—*Memorial Hospital v. Maricopa County*, 415 U.S. 250, 94 S. Ct. 1076, 39 L. Ed. 2d 306 (1974); *Shapiro v. Thompson*, 394 U.S. 618, 89 S. Ct. 1322, 22 L. Ed. 2d 600 (1969) (overruled in part on other grounds by, *Edelman v. Jordan*, 415 U.S. 651, 94 S. Ct. 1347, 39 L. Ed. 2d 662 (1974)).

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